

SENATE BILL REPORT

SB 5750

As of February 10, 2009

Title: An act relating to protection of consumers by providing flexibility in the repayment of certain debts.

Brief Description: Addressing the protection of consumers by providing flexibility in the repayment of certain debts.

Sponsors: Senators Pridemore, Swecker, Hargrove, Kastama, Kauffman, Fairley, Kohl-Welles, Kline, Tom, Murray, Keiser, Jacobsen and Shin.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/10/09.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Alison Mendiola (786-7483)

Background: Payday lending practices are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act), Chapter 31.45 RCW. The phrase "payday loan" refers to a type of short-term, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. In a typical payday loan transaction, the consumer writes the lender a post-dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper. The Act regulates payday lending practices and provides for regulation of licensees who are specifically authorized to issue small loans (also known as a "payday loan"). No lender may lend more than \$700 to a single borrower at any one time. The lender may charge up to 15 percent for the first \$500. If the borrower has a loan in excess of \$500, the lender can charge up to 10 percent on the amount over \$500. For example, a lender could charge up to \$50 for a \$500 loan or up to \$95 for a \$700 loan.

Under the Act, licensees must maintain business books, accounts, and records. The books

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and accounts must be maintained for at least two years after a transaction. The DFI also has statutory authority to examine books, accounts, records, and files, or other information of licensees and persons that the agency has reason to believe is engaging in the business governed by Chapter 31.45 RCW.

Borrowers and lenders may agree to a payment plan for payday loans at any time. After four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. Such payment plans are subject to the following conditions:

- a written agreement is required;
- the lender may charge the borrower a one-time fee in an amount up to the fee or interest on the outstanding principal;
- the agreement must allow the buyer not less than 60 days to pay off the loan; and
- the borrower must be allowed to pay off the loan in at least three payments.

The Director of the Department of Financial Institutions (Director) may impose the sanctions against any:

- licensee;
- applicant; or
- director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

Sanctions may include:

- the denial, revocation, suspension, or conditioning of a license;
- an order to cease and desist from specific practices;
- the imposition of a fine not to exceed \$100 per day for each day's violation;
- the provision of restitution to borrowers or other injured parties; and
- the removal from office or banning from participation in the affairs of any licensee.

Summary of Bill: The minimum term for a payday loan is 60 days.

A licensee may only charge 10 percent of the principal as interest or fees for the endorsement of a small loan.

Payment Plan. If a licensee cannot repay a payday loan when it is due, the licensee may charge the borrower up to 5 percent on the outstanding principal of the loan and this amount must be financed in the payment plan.

The payment plan must allow for payments over a period of at least 30 days per \$100 borrowed, in equal 15-day installments.

Any post-dated checks must be returned to the borrower.

A borrower defaults on a payment plan by failing to make two consecutive installment payments. Upon default, the licensee may collect the entire outstanding loan balance.

DFI Reporting Requirements. The Director must collect and submit the following information to the Legislature:

- the number of borrowers who entered into the payment plan since the effective date of these provisions;

- how the number of borrowers in payment plans compares to the number of borrowers in payment plans prior to the effective date of these provisions;
- the number of borrowers who had defaulted since the effective date of these provisions; and
- if known, how the number of borrowers who have defaulted compares to the number of borrowers who defaulted prior to the effective date of these provisions.

Appropriation: None.

Fiscal Note: Requested on February 8, 2009.

Committee/Commission/Task Force Created: None.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

Persons Testifying: PRO: Maya Baxter, Statewide Poverty Action Network; Tony Lee, Alliance to Prevent Predatory Lending; Bev Spears, Washington Community Action Network, Bob Cooper, National Association of Social Workers; and Barbara O'Leary, Association of Community Organizations for Reform Now.

CON: Dennis Bassford, Angela Toussant, Regina Alexander, Pamela Fann, Oscar Eason, Chris Guillen, and Connie Proctor, Moneytree and Financial Service Centers of Washington